



DEFENSE FINANCE AND ACCOUNTING SERVICE

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FEB 13 2002

DFAS-DFM

MEMORANDUM FOR DIRECTOR, MILITARY PAY OPERATIONS, DEFENSE
FINANCE AND ACCOUNTING SERVICE (DFAS-PM/CL)

SUBJECT: Interim Change to the Department of Defense
Financial Management Regulation (DoDFMR), Volume 7,
Part B, Regarding Retired Pay Computation for
Members Retired Following a Disciplinary Reduction
in Grade (DFAS Item K-5)

The attached is Interim Change R04-02 to Chapter 3 of
the DoDFMR, Volume 7B. This change incorporates Public
Law 106-398, Section 651, October 30, 2000, which provided
for an exception to the high-36 month computation of retired
pay base for members retired following disciplinary reduction
in grade.

We have evaluated your comments on the proposed change
and included your comments where appropriate. Assignment
of the interim change number is your authority to initiate
procedural modifications to implement this change. Use the
attached to initiate the formal change to the DoDFMR, Volume
7B.

for *Klara D. Hinton*
Jerry S. Hinton
Director for Finance

Attachments
As stated

cc DASD (MPP) (Comp)
OUSD (C) (OCDFO) (FP)
ODGC (F)
DFAS-GAM/DE
Service Liaisons
USCG/NOAA/PHS Liaisons
DFAS-PRR/DE
DFAS-PMJE/DE

1. Add paragraph 030112 to read:

030112. Exception to High 36-Month Retired Pay Computation for Members Retired Following a Disciplinary Reduction in Grade. Members or former members who entered Uniformed Services on or after September 8, 1980, will have their retired pay base computed using the high 36-month average, except for the members described below, whose retired pay base is based on the final basic pay of the grade prescribed in title 10 U.S.C. 1406, rather than the highest 36-month average of basic pay.

A. Affected Members. A member or former member subject to the above exception is one who, by reason of conduct occurring after October 30, 2000:

1. In the case of an enlisted member retired or transferred to the Fleet Reserve or the Fleet Marine Corps Reserve, is reduced in grade as a result of court-martial sentence, nonjudicial punishment, or an administrative action, unless the member was subsequently promoted to a higher enlisted grade or appointed to a commissioned or warrant grade, in which case see subparagraph B below.

2. In the case of an officer, is retired in a grade lower than the highest grade in which served by reason of denial of a determination or certification under 10 U.S.C. 1370, that the officer served satisfactorily on active duty in that grade. This determination is to be applied only in those circumstances where such determination is the result of conduct occurring after October 30, 2000. Conduct, for the purposes of this provision shall not include failure to complete the time necessary for certification under 10 U.S.C. 1370, absent any other conduct bearing on such certification.

B. Special Rule for Enlisted Members. In the case of an enlisted member retired within 3 years after having been reduced in grade as prescribed in subparagraph A.1 above, and who was not subsequently promoted to a higher enlisted grade (or appointed to a warrant or commissioned grade), the retired pay base will be computed using the final basic pay rather than the high 36-month average. However, if the member is subsequently promoted to a higher enlisted grade (or appointed to a warrant or commissioned grade), then the member's retired pay will be computed using a high 36-month average computation. The computation will use the final 36 months of basic pay, except for the months in which the member served in a grade higher than the grade in which retired. The basic pay for such months shall be the rates that would have applied to the member at that time if serving in the grade in which retired.

EXAMPLES:

1. An E-7 is reduced to E-5 and retired as E-5. This member comes under subparagraph A.1. above with retired pay base computed under the pre-September 1980 system which is final pay rules using the pay of an E-5.

2. An E-7 is reduced to E-5 two years before retirement, but is promoted 1 year later to E-6 and retired as an E-6. This member uses the "Special Rule" and computes a high-36 as specified in subparagraph B above rather than using the final pay of an E-6. In computing the high-36 average, it would include 12 months as an E-7, 12 months as an E-5 and 12 months as an E-6. The "Special Rule" requires that the time as an E-7 will be replaced in the high-36 formula with pay rates of an E-6.

2. Add the following to the Bibliography:**Paragraph****Citation**

030112

Public Law 106-398, section 651,
October 30, 2000

030112.A.2

OASD/MPP memo, December 20, 2001